

NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES. See Ariz. R. Supreme Court 111(c); ARCAP 28(c); Ariz. R. Crim. P. 31.24.

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COURT OF APPEALS
DIVISION TWO

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

THE STATE OF ARIZONA,)	
)	
Respondent,)	2 CA-CR 2009-0008-PR
)	DEPARTMENT A
v.)	<u>MEMORANDUM DECISION</u>
)	Not for Publication
RONNIE L. TURNER,)	Rule 111, Rules of
)	the Supreme Court
Petitioner.)	
_____)	

PETITION FOR REVIEW FROM THE SUPERIOR COURT OF GRAHAM COUNTY

Cause No. CR-2004-333

Honorable R. Douglas Holt, Judge

REVIEW GRANTED; RELIEF DENIED

Ronnie L. Turner

Florence
In Propria Persona

H O W A R D, Presiding Judge.

¶1 Pursuant to a plea agreement, petitioner Ronnie Turner was convicted of attempted child molestation, a class three felony and a dangerous crime against children. In April 2005, the trial court imposed an aggravated, eleven-year prison term, a sentence within

the nine- to eleven-year range set forth in the plea agreement. In August 2007, Turner filed his first notice of post-conviction relief pursuant to Rule 32, Ariz. R. Crim. P. Apparently treating the notice as a petition, the court denied Turner's claim that he was entitled to relief under *Blakely v. Washington*, 542 U.S. 296 (2004), and found his notice, filed more than two years after he had been convicted and sentenced, untimely. Turner filed a second petition for post-conviction relief in November 2008. This petition for review followed the trial court's denial of that petition. We will not disturb a trial court's ruling on a petition for post-conviction relief absent an abuse of discretion. *State v. Watton*, 164 Ariz. 323, 325, 793 P.2d 80, 82 (1990). We find none here.

¶2 In his petition for review to this court, Turner essentially restates the numerous arguments he set forth in his petition below. The "Issue Presented for Review" portion of his petition reads as follows:

The State of Arizona, through professional misconduct, has violated the Petitioner's Right of the Constitution of the United States on the following: Due Process Clause, simultaneously, of Fifth [and] Fourteenth Amend[ments and] Double Jeopardy Clause [and] Equal Protection of the Laws Clause [and] Sixth Amend[ment] Trial-by-jury Right [and] Confrontation Clause [and] Protection against illegally enhanced multiple sentences [and] Right of Effective Assistance of Counsel [and] Right to be informed of the nature and cause of the accusation [and] Supreme Court Rules: Apprendi [and] Crawford [and] Blockburger [and] Anders Brief [and] Rule of Lenity [and] Brady [and] Fruit-of-the Poisonous Tree Doctrine [and] Federal Sentencing Guidelines [and] Sentencing Reform Act of 1984 [and] Jencks Act [and] Title III . . . which shows the State[']s bias [and] prejudice by fundamental errors, fundamental unfair

acts, [and] fundamental miscarriage of justice in the following memorandum of points [and] authorities.

¶3 The trial court summarily denied Turner’s petition, stating:

[O]n December 3, 2008, the Court received a lengthy photocopy of a handwritten legal memorandum, author unknown, complaining about a violation of civil rights “for first[-]time offenders” and arguing that sex offenders do not receive due process of law. Apparently, Mr. Turner has hooked up with someone in prison who has filed a writ of habeas corpus in the Federal Court. The[] citations attached to Mr. Turner’s Second Petition for Post[-]Conviction Relief have nothing to do with Rule 32. Mr. Turner does not make any colorable claims under Rule 32. This petition is also untimely, and fails to assert any legal theory for legitimate judicial action.

¶4 To the extent Turner’s second petition for post-conviction relief raised claims he either raised or could have raised in his first post-conviction proceeding, they are precluded under Rule 32.2(a)(2) and (3) (precluding claims based on any ground finally adjudicated on the merits on appeal or in any previous collateral proceeding, or waived at trial, on appeal, or in any previous collateral proceeding). Nothing in the petition for review establishes that Rule 32.2 is inapplicable to Turner’s petition filed below or that Turner should be excused from that rule’s preclusive effect. Nor does Turner appear to suggest his claims fall within any of the exceptions to preclusion provided by Rule 32.2(b). To the extent Turner argued in his petition below that his claims were of sufficient constitutional magnitude to avoid preclusion, *see* Ariz. R. Crim. P. 32.2 cmt., the trial court implicitly and correctly rejected that claim when it denied relief. *State v. Swoopes*, 216 Ariz. 390, ¶ 39, 166 P.3d 945, 957 (App. 2007).

¶5 Because Turner did not raise any colorable claims upon which post-conviction relief could have been granted, the trial court properly denied relief. Therefore, although we grant the petition for review, we deny relief.

JOSEPH W. HOWARD, Presiding Judge

CONCURRING:

JOHN PELANDER, Chief Judge

PHILIP G. ESPINOSA, Judge